



July 29, 2008

Jeff S. Jordan  
Supervisory Attorney  
Federal Election Commission  
999 E Street S.E.  
Washington, D.C. 20463

Re: MUR 6023

Dear Mr. Jordan:

Please find enclosed an original and two copies of the Response John McCain 2008, Inc. (Joseph Schmuckler, Treasurer) in MUR 6023.

As indicated in the Response, the enclosed filing addresses the allegations in the June 9, 2008 Complaint relating to The Loeffler Group. The Complaint's unrelated allegations regarding 3eDC are addressed in a separately filed response.

Should you have any questions concerning this Response, please feel free to contact either me or Todd Steggerda, Chief Counsel to John McCain 2008.

Sincerely,

Trevor Potter  
General Counsel  
John McCain 2008, Inc.  
(703) 650-5584

cc: Joseph R. Schmuckler, Treasurer

2008 JUL 29 PM 4:18  
FEDERAL ELECTION COMMISSION  
OFFICE OF THE CLERK  
WASHINGTON, D.C. 20463

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**RESPONSE OF JOHN MCCAIN 2008, INC.  
(JOSEPH SCHMUCKLER, TREASURER) TO COMPLAINT  
BY CAMPAIGN MONEY WATCH IN MUR 6023  
REGARDING ALLEGEDLY IMPROPER CONTRIBUTIONS  
FROM THE LOEFFLER GROUP**

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**INTRODUCTION**

On June 9, 2008, Campaign Money Watch filed the present Complaint with the Federal Election Commission in which it speculates – without any legitimate factual or legal basis – about “important possible violations of federal election law with regard to Sen. John McCain’s presidential bid and the John McCain 2008, Inc. committee.” According to Campaign Money Watch, which cites mainly news reports in support of its theory, consulting payments made by The Loeffler Group LLP (“L.G.”) to Susan Nelson, the Campaign’s National Finance Director, may be improper. Apparently surmising that a McCain Campaign fundraising consultant could not have been doing simultaneous part-time consulting work for her other employer in the usual course of business, Campaign Money Watch alleges that this matter “involve[s] excess or illegal contributions from for-profit entities” and asks the Commission to investigate further. Yet, as the present Response of Senator John McCain and John McCain 2008, Inc. (collectively, the “Campaign”) explains below, the Commission should find no reason to believe that the Campaign received any contributions from L.G. and should dismiss the Complaint.<sup>1</sup>

**ARGUMENT**

The Campaign did not receive any improper contributions from Ms. Nelson’s previous employer in the form of salary subsidization, or, for that matter, through any other improper means, as Campaign Money Watch theorizes without basis in the Complaint. To the contrary, from the outset of the Campaign’s consulting relationship with Ms. Nelson, the Campaign has at all times operated under the clear understanding (based on the express statements of L.G.) that: (1) any contractual payments that L.G. was to provide to Ms. Nelson under their 2007 severance agreement were not only commercially reasonable, but were also consistent with and pursuant to L.G.’s pre-existing severance policy and practices, and that (2) L.G.’s 2008 consulting agreement with Ms. Nelson provided commercially-reasonable payments for the continuing work that the parties envisioned Ms. Nelson would be performing, and that – to the best of the Campaign’s knowledge – Ms. Nelson ultimately did perform, without any detriment whatsoever to her duties as the national Finance Director to the McCain Campaign during that period.

Ms. Nelson was highly recommended to the Campaign for the position of National Finance Director by individuals who were well known to the Campaign: She was the former business partner of the Campaign’s previous National Finance Director. At the time (July 2007) there was a vacancy in the position because of a change in campaign leadership. Upon Ms. Nelson being offered the National Finance Director position in July 2007, the Campaign was

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<sup>1</sup> The present Response addresses the portion of the Campaign Money Watch Complaint regarding The Loeffler Group. In a separately-filed Response, the McCain Campaign details the basis on which the allegations regarding 3eDC are baseless and subject to dismissal, as well.

informed by Tom Loeffler, who was a volunteer fundraiser for the Campaign, as well as Ms. Nelson's employer at L.G., that L.G. was working out her severance package from L.G. and that it would require her to be available to L.G. for consultation on client matters on which she had previously worked. The Campaign advised L.G. that it had no objection to Ms. Nelson assisting L.G. on this occasional basis provided that it did not interfere with any of her work for the Campaign.

In January 2008, the Campaign was informed by Tom Loeffler that Ms. Nelson had agreed to do work for L.G., following the expiration of her severance agreement, for which L.G. would pay her a consulting fee for the time she spent working for L.G. The Campaign told L.G. that any compensation received by Ms. Nelson from L.G. would have to be the usual and normal rate paid for such work in order to comply with federal election law and regulations. The Campaign reviewed a contract between L.G. and Ms. Nelson and stated that, provided this were in fact the case and that such part-time consulting did not interfere with any of Ms. Nelson's work for the Campaign, that the Campaign did not object to Ms. Nelson performing such services for L.G.

In May 2008, the Campaign instituted a new policy that prohibited campaign employees from lobbying or receiving compensation for lobbying activities (Exhibit A). Because L.G. is a lobbying organization, pursuant to the policy Ms. Nelson was informed by the Campaign that she could no longer perform consulting services for L.G. Ms. Nelson then confirmed to the Campaign that she had terminated her consultant relationship with L.G. at that time.

### **CONCLUSION**

The Campaign at all times has operated under the express statements of L.G. that its 2007 severance agreement with Ms. Nelson was consistent with and pursuant to its pre-existing severance policy and practices, and that its 2008 consulting agreement with Ms. Nelson was in the usual and ordinary course of L.G.'s business and at commercially reasonable terms. Therefore, we respectfully request that the Commission dismiss the Complaint and take no further action in this matter.

# Exhibit A

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### **MCCAIN CAMPAIGN POLICY**

In order to ensure that there are no conflicts of interest between the Campaign and those who are assisting us, the Campaign's policy on the involvement of lobbyists is as follows:

- 1.) No person working for the Campaign may be a registered lobbyist or foreign agent, or receive compensation for any such activity.
- 2.) Part-time volunteers for the Campaign must disclose to the Campaign any status as registered lobbyists or foreign agents. Such persons are prohibited from involvement in any Campaign policy-making on the subjects on which they are registered, including service on policy task forces or participation in policy discussions on those subjects. Such persons are also prohibited from lobbying Senator McCain or his Senate personal office or committee staffs during the period they are volunteering for the campaign.
- 3.) No person with a McCain Campaign title or position may participate in a 527 or other independent entity that makes public communications that support or oppose any presidential candidate.
- 4.) No vendor to the McCain Campaign may also be a vendor to a 527 or other independent entity that makes public communications that support or oppose any presidential candidate without a pre-approved firewall pursuant to FEC regulations.

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**SENATOR MCCAIN HAS ALSO ANNOUNCED THAT IT WILL BE HIS POLICY THAT ANYONE SERVING IN A MCCAIN ADMINISTRATION MUST COMMIT NOT TO LOBBY THE ADMINISTRATION DURING HIS PRESIDENCY.**

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